

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

RUBEN LUCIANO-JIMENEZ, :
Petitioner : CIVIL ACTION NO. 3:20-2384
v. : (JUDGE MANNION)
CLAIR DOLL, Warden, et al. :
Respondents :

O R D E R

Presently before the court is the March 1, 2021 Report and Recommendation of Judge Karoline Mehalchick. (Doc. 12). Counsel have stipulated that neither party will be filing objections to that report. (Doc. 14).

1. Following review by the court, the Report and Recommendation of Judge Mehalchick is **GRANTED IN ITS ENTIRETY**.
2. The Petition for a Writ of Habeas Corpus to the extent that Petitioner be afforded an individualized bond hearing before the immigration court is **GRANTED**. (Doc. 1).
3. The Immigration Judge shall afford Petitioner Ruben Luciano-Jimenez an individualized bond hearing within twenty-one (21) days of this Order, provided COVID-19 quarantine protocols allow or as soon as practically allowable should Petitioner's housing unit end up subject to quarantine protocols at the time of the scheduled hearing. The

immigration judge must make an individualized inquiry into whether detention is necessary for the purposes of ensuring that the Petitioner attends removal proceedings and that his release will not pose a danger to the community. See *German Santos v. Warden Pike County Corr. Facility*, 965 F.3d 203, 214 (3d Cir. 2020); *Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 475, 477-78 (3d Cir. 2015). Further, the government bears the burden of presenting evidence at this hearing and proving by clear and convincing evidence that Petitioner's continued detention is necessary to fulfill the purposes of the detention statute. *German Santos*, 965 F.3d at 213-14.

4. The Parties shall report to this Court on the outcome of the individualized bond hearing no later than seven (7) days after the Immigration Judge's bond hearing.
5. Petitioner reserves the right to request this Court to enforce its order in the event that the Immigration Judge's bond hearing does not comply with the requirements laid out in the Court's order.
6. Nothing in this stipulation or order shall deprive this Court of its authority to enforce its order granting the writ of habeas corpus as this Court deems appropriate.

7. Petitioner's request for attorney's fees pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412 is deemed withdrawn.

s/ Malachy E. Mannion

Malachy E. Mannion
United States District Judge

Dated: March 2, 2021

20-2384-01